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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,316	02/17/2004	Kenneth Stuart Duff	P69165US1	5209

7590

11/15/2005

LAW OFFICES OF JACOBSON HOLMAN
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EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/779,316	Applicant(s) DUFF, KENNETH STUART	
	Examiner Timothy R. Waggoner	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-23 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrasing of the abstract includes terms that are considered legal jargon. Use of the words means, therewith, thereon, therethrough, and wherein and words of the like should be avoided in the abstract.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 8-9, and 12-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Lewis et al. USPN 6,592,001.

Lewis et al. discloses a paper towel dispenser comprising:

- (Re claim 1) "openable enclosure" (26,12 figure 1)
- (Re claim 1) "base member including a dispensing opening" (14 figure 3)

Art Unit: 3651

- (Re claim 1) "adjustment mechanism which includes, a passageway"
(figure 4)
- (Re claim 1) "passageway restriction ... movable relative to said
passageway" (52,53,54 figure 4)

Lewis et al. further discloses:

- (Re claim 2) "restriction controlling member is mounted on a carrier" (55
figure 4)
- (Re claim 3) "carrier is itself movable" (55 figure 4)
- (Re claim 4) "when said carrier is moved, the restriction of said
passageway is changed" (figure 16)
- (Re claim 5) "wherein said restriction controlling member can be moved
entirely out of said passageway" (figure 21)
- (Re claim 6) "restriction controlling member ... in a sliding engagement
with said carrier" (68 figure 11)
- (Re claim 8) "passageway restriction ... adjustable ... from outside of said
openable enclosure" (92 figure 12)
- (Re claim 9) "passageway restriction member is adjustable by a key" (92
figure 12)
- (Re claim 12) "a funnel member" (130 figure 3)
- (Re claim 13) "towel is to be dispensed from the center" (18 figure 2)
- (Re claim 14) "dispensing characteristic adjustment is provided
downstream ... within said enclosure" (figure 3)

Art Unit: 3651

- (Re claim 15) "openable enclosure ... to allow access to said base" (25 figure 1)
- (Re claim 16) "back wall mountable portion" (12 figure 2)
- (Re claim 17) "cover is pivotally moveable relative to said back wall" (32,25 figure 1)
- (Re claim 18) "characteristic adjustment mechanism actuated by the movement of said first cover" (25,102 figure 2)
- (Re claim 19) "passageway restriction controlling member is mounted on a carrier ... characteristic adjustment mechanism actuated by the movement of said first cover" (55,102 figure 21)
- (Re claim 20) "actuator moves said carrier between two conditions" (figure 20-21)
- (Re claim 21) "cover member are pivotally engaged about a pivot axis extending laterally" (32 figure 1)
- (Re claim 22) "cover moves downwardly" (figure 1)

Claim 23 rejected under 35 U.S.C. 102(a) as being anticipated by Lewis USPN 6,592,001.

Lewis et al. discloses a paper towel dispenser comprising:

- (Re claim 23) "a base member" (14 figure 3)
- (Re claim 23) "a dispensing characteristic adjustment mechanism" (figure 4)
- (Re claim 23) "a passageway" (130 figure 3)

Art Unit: 3651

- (Re claim 23) "passageway restriction controlling member" (52,53,54 figure 4)

Claims 1, 2, & 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Paukov USPN 6,769,589.

Paukov discloses a paper towel dispenser comprising:

- (Re claim 1) "openable enclosure" (12,14 figure 1)
- (Re claim 1) "base member including a dispensing opening" (39 figure 4)
- (Re claim 1) "adjustment mechanism which includes, a passageway" (figure 7)
- (Re claim 1) "passageway restriction ... movable relative to said passageway" (figure 8)

Paukov further discloses:

- (Re claim 2) "restriction controlling member is mounted on a carrier" (23 figure 8)
- (Re claim 11) "carrier is manually movable by operation of a handle which controls a carrier movement actuator mechanism" (45 figure 5)

Claims 1 & 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Allegre USPN 6,869,041.

Allegre discloses a paper towel dispenser comprising:

- (Re claim 1) "openable enclosure" (14 figure 1)
- (Re claim 1) "base member including a dispensing opening" (25 figure 1)

- (Re claim 1) "adjustment mechanism which includes, a passageway" (36, 24 figure 3)
- (Re claim 1) "passageway restriction ... movable relative to said passageway" (24 figure 3)

Allegre further discloses:

- (Re claim 10) "restriction controlling member ... urged toward a passage way" (38 figure 4)

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: a coreless paper towel dispenser "where in said sliding engagement is controlled by ... restriction control member" in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TRW



GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER